

REMARKS

The Office Action dated January 19, 2010 has been carefully considered. Claim 3 has been canceled. Claim 2 is in this application. No new matter has been added.

Claim 2 has been amended to more clearly define the features of the present invention. Support for the amendment is found throughout the specification and in particular on page 4, lines 1-20. No new matter has been added.

The previously submitted claims were rejected under 35 U.S.C. § 102(b) as anticipated by FR 2613232 to Gatellier or U.S. Patent No. 2,672,138 to Carlock. Applicant submits that the teachings of these references do not disclose or suggest each of the limitations defined by the present claim.

Gratellier discloses nasal simulator including cylinder 2. Cylinder 2 includes ring 4 extending around a surface of the cylinder, as shown in Fig. 1. A rim 3 is positioned at an end of cylinder 2. In a second embodiment, a pair of cylinders 10 are attached to one another, as shown in Fig. 3. A tab 7 extends from one end of the cylinders.

In contrast to the invention defined by the present claim, Gratellier does not teach or suggest a cylinder including a widening in a central part of its external portion in which the widening covers the whole periphery of the cylinder except in a small part that faces or comes into contact with the nasal septum during use. In the present invention, the widening and the protruding support produce a gripping effect on the nose alar which simulates the levator muscles. In contrast, Gratellier discloses a thin ring extending around the entire circumference of the cylinder. There is no widening in the central part of Gratellier which covers the whole periphery of the cylinder except for a small part that faces or comes in contact with the nasal septum during use. In the present invention, during use, the widening periphery 2, is positioned in the area in contact with the wing of the nose for the purpose of moving that area outwards, thereby causing the stretching of the muscle in this area. Applicant submits that the thin ring of Gratellier will not have this effect during use. The present invention provides a combined effect of the widening of the cylinder which dilates the nasal passages and stretches the perinasal muscles and the protruding support which extends from the rim that acts as a clip on the perinasal muscle, thereby increasing their muscular activity and their dilator effect on the

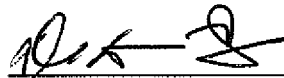
nostrils. The stimulating effect of the perinasal muscles leads the nostrils to dilate, which is effective in patients suffering from nasal collapse on inhaling. There is no teaching or suggestion of these features in Gratellier. Accordingly, each of the limitations of the present claim is not found in Gratellier and the invention defined by the present claim is not anticipated by Gratellier.

Carlock discloses a device to promote nasal breathing and prevent snoring in which a nasal breathing tube has a bulge-lock design that fits snugly, comfortably but firmly in the nostrils and the bulge rests in the interior pocket or nest of the lobes of the nose. In contrast, to the invention defined by the present claim, Carlock does not teach or suggest a widening in a central part of its external portion in which the widening covers the whole periphery of the cylinder except in a small part that faces or comes into contact with the nasal septum during use for simulating the levator muscle. Further, Carlock does not disclose or suggest the peripheral rim and protruding support of the present claim. The Examiner compares the rim with part 14 of Carlock. However, part 14 is referred to as the large end of the filter trap that is used to capture, filter and retain poisonous elements of air, Col. 4, line37-40. Carlock does not teach a peripheral rim adapted to serve as a limit where the insertion of the simulator into the nose should not pass. In addition, Carlock does not teach or suggest a protruding support extending from the rim adapted to add pressure on the external wall of the nose and in combination with the widening producing a gripping effect on the nose alar which stimulate the levator muscle. Accordingly, each of the limitations of the present claim is not found in Carlock and the invention defined by the present claim is not anticipated by Carlock.

In view of the foregoing, Applicant submits that all pending claim is in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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